

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 1692 OF 2004
IN
CIVIL APPLICATION NO. 621 OF 2004
IN
SECOND APPEAL NO. 910 OF 2001

Office Notes, Office Memoranda
of of Coram, appearances, Court's
orders and Registrar's orders : Court's or Judge's orders

Mr. J.A. Sarkhot with R.V.Govilkar for
the applicants.

Mr. Pratap Patil for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 15TH JUNE, 2005

P.C.:

1. Heard learned counsel for both parties.

2. This matter is moved before this Court for modification of the order dated 10.9.2004 whereby the appellants were permitted to carry out the repairs of the suit shed. After the order was passed, this application was filed stating that there was no structure on the said premises. In view of this aspect, the Court Commissioner's appointment was made to ascertain the correct state of facts on 2.11.2004, consequent to which the Court Commissioner's report is received. The report dated 10.1.2005 makes it clear that

there is no structure in existence as can be seen in the accompanying sketch whereby the portion is marked A, B, C & D. The learned counsel for the appellants also submits that no structure is in existence on the said spot. In view of this position, obviously the order dated 10.9.2004 has become redundant and cannot be acted upon and, therefore, stands recalled. It is clarified that, if the appellants want to take any fresh proceeding in this regard, the appellants are at liberty to do so.

Application stands disposed of.

(P.V. Kakade, J.)